Patent Attorney Docket No. 13779-67

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Wolfgang von DEYN et al.	Mail Stop: Amendment
Application No.: 10/581,109	Group Art Unit: 1612
Filing or 371(c) Date: May 31, 2006	Examiner: Nannette Holloman
Title: The Use of N-arylhydrazine Derivatives for Combating Non-Crop Pests	Confirmation No.: 5188

DECLARATION UNDER 37 C.F.R. § 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

1. I, David George Kuhn, a citizen of the United States of America and residing at 1208 Dalgarven Drive, Apex, NC, USA, do hereby declare as follows:

2. I am a fully trained organic chemist having studied organic chemistry at the Pennsylvania State University and the University of Pittsburgh.

3. I became an employee of BASF Corporation in 2000 through the acquisition of American Cyanamid Corp by BASF. I have 30 years of experience in the design, preparation and evaluation of novel chemicals as insect control agents. Therefore, I am fully conversant with the technical field to which the invention disclosed and claimed in U.S. Application No. 10/581,109 belongs;

4. I have read and fully understand U.S. Application No. 10/581,109;

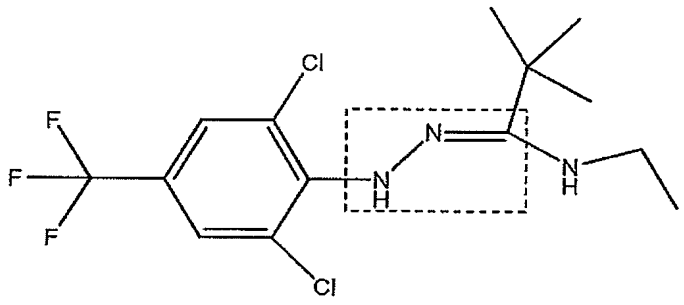
5. I have studied the record of U.S. Application No. 10/581,109, in particular the Office Action of June 23, 2009, and the prior art applied by the Examiner, in particular the teachings of EP 0604798 ("Furch") and US 4,152,436 ("Drabb");

6. The following observations are made by me;

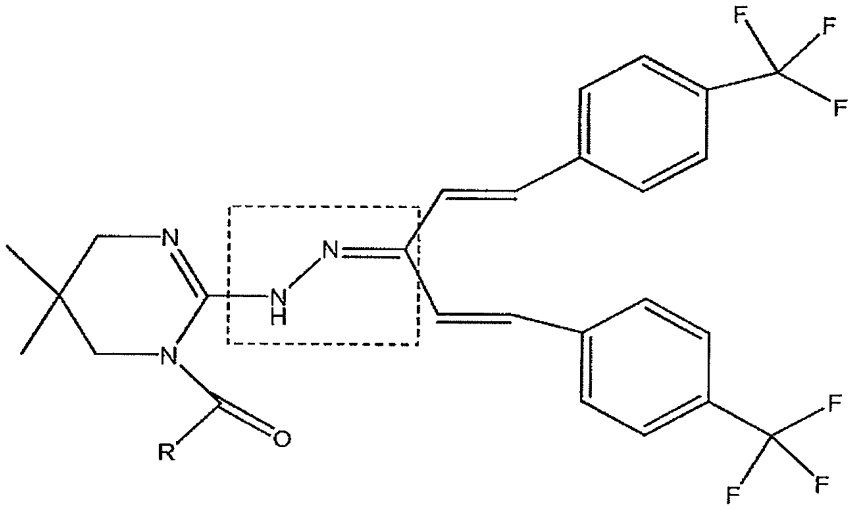
7. The hydrazone compounds disclosed in Drabb are structurally significantly different from the N-arylhydrazine derivative compounds disclosed in Furch;

8. Examples of representative structures are shown below.

Furch representative structure:



Drabb representative structure:



9. While the two compounds share the common element shown in the boxed-in areas above, this is the only similarity in structure between the compounds;

10. Because of the structural differences between the Furch compounds and the Drabb compounds, the compounds of Drabb and Furch behave chemically and biologically very differently;

11. The compounds disclosed in Drabb are analogs of hydramethylnone, which is a known as a complex III inhibitor according to the Insecticide Resistance Action Committee classification. The compounds disclosed in Furch are amidrazones, which can be regarded as GABA antagonists. Thus, the compounds of Drabb and Furch have a completely different mode of action with regard to controlling pests;

12. One of ordinary skill in the art would have no expectation of success in replacing the compounds of Drabb with the compounds of Furch in the methods of Drabb

because of the structural distinctions between the compounds, thus one of ordinary skill in the art would not combine the teachings of the two documents;

13. The undersigned petitioner declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Date: October 26, 2009

David George Kuhn

David George Kuhn